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8 BEFORE THE INSURANCE COMMISSIONER
9 OF THE STATE OF WASHINGTON

10 In the Matter of the Application regarding
11 the Conversion and Acquisition of Control
12 of Premera Blue Cross and its Affiliates,

Docket No. G02-45
COMMENTS ON AND RESPONSE TO
PREMERA'S COMMENTS ON
SIXTEENTH ORDER

13 The Interveners collectively submit the following comments pursuant to the
14 Commissioner's invitation to comment on the Sixteenth Order and in response to Premera's
15 Comments on the Commissioner's Sixteenth Order.

16 **I. PUBLIC TESTIMONY**
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18 The Interveners agree with the procedure and times set forth in the Commissioner's
19 Sixteenth Order regarding public testimony. The Interveners propose, in addition, that members
20 of the public who are not able to attend the hearings in person be permitted to testify
21 telephonically.

22 The Interveners do not object to Premera's request for a court reporter nor its proposal to
23 bear the costs of a court reporter.

24 **II. PUBLIC COMMENT**

25 The Interveners agree with the Commissioner's decision that all public comments
26 become part of the administrative record in this matter.

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III. PUBLICATION OF EXPERT REPORTS

The Interveners agree with the Commissioner's decision on the publication of expert reports and executive summaries. Although the Interveners agree in part with Premera's proposed modification of the Sixteenth Order regarding the publication of these reports and summaries, they make the following requested changes:

a. OIC Consultants' Final Reports and Executive Summaries

Premera's proposed treatment of the OIC Consultants' reports and executive summaries excludes the Interveners from the process entirely. Such exclusion is inexplicable. Inclusion of the Interveners in the process will impose no hardship on Premera as the Interveners agree not to disclose these documents to the public until such time as they are permitted to do so by the Commissioner's Order.

The Interveners therefore request that the OIC Consultants' final reports and executive summaries be submitted to the Interveners and Premera concurrently.¹ Premera should then submit any proposed redactions to both the OIC Staff and Interveners. And, like the OIC Staff, the Interveners should have the opportunity to seek resolution of any disagreement over the propriety of any proposed redactions prior to release of the documents to the public.

b. Interveners' Expert Reports and Executive Summaries

Although the Interveners agree in principle that Premera should be given the opportunity to review the Interveners' expert reports and executive summaries for the purposes of proposing redactions of confidential information, the Interveners object to the lengthy timeframe proposed by Premera for making such redactions and for resolving any issues related to such redactions.

¹ The Interveners also request that the Alaska Division of Insurance's Consultants final reports and executive summaries also be submitted to them at the same time they are submitted to Premera.

1 Premera's proposed timeframe introduces unnecessary delay in the release of
2 information to the public and does not have a date certain for resolution and release of the expert
3 reports. To begin, Premera will not need a lot of time to "scrub" the report or accompanying
4 executive summary of the health impact study commissioned by the Interveners because none of
5 the information contained in that study is based upon or contains Premera's confidential or
6 proprietary information. Nor will it be overly voluminous.² Similarly, any further expert
7 reports submitted by the Interveners are unlikely to contain any confidential or proprietary
8 information other than the confidential or proprietary information which appears in the OIC
9 staff consultants' reports. That information, of course, will have already been vetted by
10 Premera, redacted, and publicized well before the Interveners' expert reports are to be made
11 public. Premera will need little time to scrutinize the Interveners' expert reports.

12 Additionally, if the executive summaries are not published until November 24th, as
13 proposed by Premera, the public will have less than one week to review and prepare comments
14 on the executive summaries. Given the tremendous import of the proposed conversion, one
15 week is insufficient for the public to prepare and provide meaningful input for the
16 Commissioner's review.³

17 The following proposed timeframe addresses both Premera's concern that it have an
18 opportunity to review the executive summaries and expert reports prior to their release to the
19 public and the Interveners' concern that the dissemination of the reports and summaries not be
20 unnecessarily delayed: 1) Interveners will submit to Premera and to the OIC Staff their expert
21 reports and executive summaries on November 10th; 2) Premera and the OIC Staff will provide
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24 ² The Interveners are willing to certify to Premera that the health impact study will not be based on or contain
any of Premera's confidential or proprietary information.

25 ³ Because November 27th is Thanksgiving, the public will have only five business days to review the
26 Interveners' expert summaries.

1 any proposed redactions to the Interveners by November 14th; 3) any disputes regarding the
2 propriety of the proposed redactions in the expert reports and executive summaries will be
3 resolved by the Special Master by noon on November 19th; and 4) the reports and summaries
4 can be released to the Commissioner for placement on the OIC website by close of business on
5 November 19th.

6 The Interveners have discussed this proposed schedule with Premera's counsel in
7 an effort to arrive at a joint proposal to submit for the Commissioner's consideration. While no
8 agreement has yet been reached, the Interveners believe that a joint proposal may be reached in
9 a couple of days after further discussions.

10 **IV. SPECIAL MASTER'S ROLE AT THE HEARING ON THE PARTIES' PRESENTATIONS**

11 The Interveners agree with the Special Master's role as set forth in the Sixteenth Order.

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13 Dated this 9th day of October, 2003.

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15 Respectfully submitted by:

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20 Amy McCullough, Alaska Bar Rule 43 Waiver
21 James J. Davis, Alaska Bar #9412140
22 Alaska Legal Services Corporation
23 Attorneys for James Garner,
24 and Anchorage Neighborhood Health Center
25 On behalf of Intervener Groups
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